

Briccetti, J. (H)

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WILLIAM SZYMCAK, STEFAN SCHUELE,  
KIM DREHER, MARIO LOPEZ, MELANIE  
RIVERA, KATRINA BOYD, ANGELA  
GREATHOUSE, CORNELIUS JACKSON,  
DAVID SIMONS, LOLITA DILLARD, and  
ANNE STEWART, individually and on behalf of  
others similarly situated,

Plaintiffs,

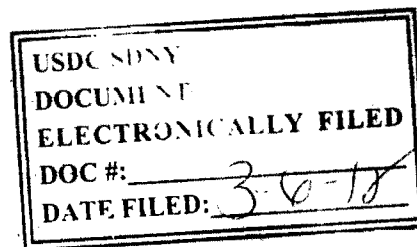
vs.

NISSAN NORTH AMERICA, INC., and  
NISSAN MOTOR CO., LTD.,

Defendants.

Civil Action No.: 10-CV- 07493(VLB) ✓

STIPULATION AND ORDER



**WHEREAS**, on February 28, 2012, Defendant Nissan North America, Inc. ("NNA") filed with the United States Judicial Panel on Multidistrict Litigation a motion for transfer and consolidation of this action with two other similar actions pending in other federal district courts, pursuant to 28 U.S.C. § 1407 ("the MDL Motion"), and requesting the three similar cases be transferred and consolidated in the United States District Court for the Northern District of Texas or, alternatively, to this Court;

**WHEREAS**, on February 28, 2012, NNA filed a Motion to Stay Proceedings in this action seeking to stay all current deadlines and any further proceedings in this case;

**WHEREAS**, Plaintiffs in this action cannot agree to a stay of the proceedings;

**WHEREAS**, on the same day, the United States District Court for the Central District of California, Los Angeles Division, *sua sponte* transferred to the United States District Court for the Southern District of New York one of the similar actions for which NNA sought transfer and consolidation in its MDL Motion, citing NNA's pending MDL

Motion and that transferring the case under 28 U.S.C. § 1404(a) would better serve the interests of justice and the convenience of the parties and witnesses, and the case was assigned to the Honorable Colleen McMahon and styled as *Tim McElroy v. Nissan North America, Inc. and Nissan Motor Co., Ltd.*, Cause No. 1:12-cv-01495-CM;

WHEREAS, the Parties have agreed in light of these developments that it would be appropriate to postpone all currently existing deadlines, as set forth in the Court's December 29, 2011 Memorandum Endorsement (Dkt. # 27), by three weeks (if the Court approves) to address issues of coordination among these various cases;

WHEREAS, Plaintiff reserves the right to take depositions after production of documents, as contemplated by the Court's schedule. However, the parties are negotiating a Stipulation of Testimony in Lieu of Deposition, which if agreed upon, would obviate the need for depositions;

**IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned attorneys for Plaintiffs and Defendants, as follows: ✓

1. Without waiving its right to refile if issues of coordination cannot be resolved over the next three weeks, NNA withdraws its Motion to Stay by way of this stipulation. ✓

2. NNA and Defendant Nissan Motor Co., Ltd. ("NML") shall serve their objections, responses and documents responsive to Plaintiffs' jurisdictional discovery requests on counsel for Plaintiffs on or before March 23, 2012. Service shall be made upon Plaintiffs' counsel on that date by email, with a courtesy copy by regular mail. ✓

3. By no later than March 30, 2012, Plaintiffs shall send a status letter to Defendants' counsel about how it plans to proceed with regard to the personal jurisdiction issue. Plaintiffs shall send a copy of the letter by fax to the Court.

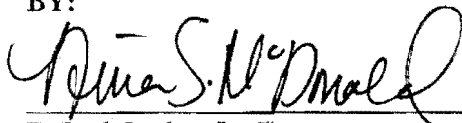
4. If appropriate, NML is to re-file its Motion to Dismiss for Lack of Personal Jurisdiction by no later than April 6, 2012. ✓

5. Plaintiffs' Opposition to NML's Motion to Dismiss for Lack of Personal Jurisdiction shall be filed by no later than April 30, 2012, and NML's Reply is due by May 14, 2012. ✓

Dated: March 2, 2012.

**SEDGWICK, LLP**

BY:

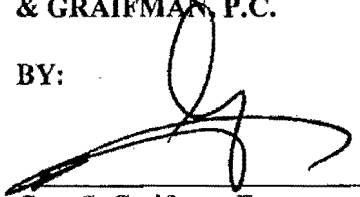


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*Attorneys for Plaintiffs*

SO ORDERED:



Hon. Vincent L. Briccetti, U.S.D.J.

Dates: 3/6/12 ✓

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The clerk is instructed to terminate  
the motion to stay (Doc # 37). WJL 3/6/12